



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2012-0378; FRL- 9685-4]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Pennsylvania; Revision to Allegheny County Regulations for Prevention of Significant  
Deterioration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP). This revision pertains to the Air Pollution Control portion of the Allegheny County Health Department (ACHD) Rules and Regulations, relating to ACHD's Prevention of Significant Deterioration (PSD) program. Additionally, EPA is proposing to make a determination that the proposed SIP revision will satisfy the Clean Air Act (CAA) infrastructure requirements relating to PSD for the 1997 ozone and particulate matter less than 2.5 micrometers (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) and the 2006 PM<sub>2.5</sub> NAAQS. This Action is being taken under the section 110(k) of the CAA.

**DATES:** Written comments must be received on or before [insert date 30 days from date of publication].

**ADDRESSES:** Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2012-0378** by one of the following methods

- A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- B. E-mail: [Cox.Kathleen@epa.gov](mailto:Cox.Kathleen@epa.gov)

C. Mail: EPA-R03-OAR-2012-0378, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. **EPA-R03-OAR-2012-0378**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Wentworth, P.E. at: (215) 814-2183, or by e-mail at [wentworth.paul@epa.gov](mailto:wentworth.paul@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On July 1, 2008, PADEP submitted a revision to its SIP on behalf ACHD. The SIP submittal consists of changes to the ACHD Rules and Regulations, Article XXI, Air Pollution Control, relating to ACHD’s PSD program.

## **I. Background**

On December 14, 1983, EPA delegated authority to ACHD to implement and enforce the provisions of Title 40 Code of Federal Regulations (CFR) Part 40 CFR 52.21 on behalf of EPA (*see* 48 FR 55625, December 14, 1983).

On February 13, 2003, ACHD requested EPA to update and affirm the existing delegation of authority agreement between Allegheny County and EPA based on the representations included in Allegheny County's February 13, 2003 letter to EPA (*see* 68 FR 14617). On March 18, 2003, EPA formally notified ACHD that as of the publication date of the information notice in the Federal Register (March 26, 2003), pursuant to 40 CFR 52.21(u), ACHD was delegated full authority to implement all portions of the federal PSD program in 40 CFR 52.21. Future additions, revisions, or deletions to 40 CFR 52.21 which are adopted by EPA are automatically incorporated into this delegation of authority agreement. EPA noted that authority is delegated to ACHD for all sources located in Allegheny County subject to review pursuant to the federal PSD program. This includes all source categories listed in 40 CFR 52.21 for each pollutant regulated by the CAA (*see* 68 FR 14617).

## **II. Summary of SIP Revision**

On July 1, 2008, PADEP submitted ACHD's proposed revision to their portion of the SIP. This SIP submission adds Allegheny County's Prevention of Significant Deterioration (PSD) regulations at Article XXI section 2102.07 entitled, "Prevention of Significant Deterioration," by incorporating by reference, the federal PSD program at 40 CFR 52.21 in its entirety. In addition, ACHD requests that as their regulation automatically incorporates by reference all future changes to 40 CFR 52.21, that such future changes be automatically incorporated into the SIP. The SIP revision submitted by ACHD on July 1, 2008 contained a provision in section 2102.07(d) that would relieve a person of the duty to comply with the PSD requirements as promulgated by EPA and incorporated in section 2102.07 if such person was "legally

temporarily relieved of the duty to comply.” On May 1, 2012 PADEP submitted a letter notifying EPA that they were withdrawing that portion of the SIP revision.

### **III. Proposed Action**

EPA is proposing to approve ACHD’s PSD permitting program by proposing approval of this SIP submission with the exception of the language in section 2102.7 as described above. EPA has determined that this revision is approvable because it conforms to the CAA and implementing regulations. Additionally, EPA is proposing to determine that ACHD has met its obligations pursuant to the PSD portion of the CAA infrastructure requirements of sections 110(a)(2)(C), (D)(i)(II), and (J) for the 1997 ozone and PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. Copies of the technical support document supporting EPA’s decision to approve ACHD’s PSD permitting program and EPA’s determination that ACHD has met its obligations pursuant to the PSD portion of the infrastructure requirements of the CAA can be obtained from the docket as discussed in the **ADDRESSES** section above. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those

imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed SIP revision, regarding Allegheny County's Prevention of Significant Deterioration (PSD) program, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds

**Authority:** 42 U.S.C. 7401 et seq.

Dated: May 21, 2012

Signed: W. C. Early, Acting  
Regional Administrator,  
Region III.

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